

REMARKS

Claims 1-3, 9-17, and 22-27 are pending. The independent claims are 1, 14 and 27, all of which stand rejected only under 35 USC §102 as being anticipated by Yanagihara *et al.* (U.S. Pub. 2003/0152032). In a telephone interview on June 4, 2007, the Examiner indicated that the changes made by this paper would overcome the rejections made in the final Office action mailed 7 March 2007.

The changes distinguish between "feedback" and "an indication of low congestion." The independent claims are changed to recite bits set to a value predetermined to convey an indication of low congestion irrespective of any particular one of the transmitted segments and so not providing feedback in the form of acknowledgements of the transmitted segments.

The application provides, in reference to Figure 1, that an indication of low congestion is provided as a result of path change (and then congestion detection, provided that the result is a determination of low congestion), connection establishment (and again, then congestion detection, provided that the result is a determination of low congestion), and buffer related events (buffer occupancy drops to a value predetermined to trigger providing an indication of low congestion). Refer to page 15, line 17, for example, to see that according to the invention, a path change triggers congestion detection, which can then result in an indication of low congestion. The same of course is true in case of connection establishment.

None of these events (path change, connection establishment, or low receive buffer) are related to any particular transmitted segment, and so any resulting

indication of low congestion cannot fairly be said to be related to any particular transmitted segment.

Applicant respectfully submits that therefore the proposed changes are supported by the specification, and that since the indication of low congestion is not sent in response to any particular transmitted segment, and so is not an acknowledgement of any transmitted segment, it cannot fairly be likened to, or equated with feedback. The claims as proposed are thus believed distinguished over the applied art.

Accordingly, applicant respectfully requests that all rejections under 35 USC section 102 and 203 of the final Office action be withdrawn, for the reasons given for the independent claims, and at least by virtue of the dependencies of the other claims. (The Advisory Action indicated that the rejections made in the final Office action under 35 USC section 112, second paragraph, have been overcome by the changes made to the claims in the paper filed in response to the final Office action. Thus, all claims are now believed patentable, and their passage to issue is earnestly solicited.)

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Date

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